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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/530,086

10/31/2005

Didier Gaget

Serie 6037

7524

7590

12/17/2008

Air Liquide  
Intellectual Property Department  
Suite 1800  
2700 Post Oak Boulevard  
Houston, TX 77056

EXAMINER

PRICE, CRAIG JAMES

ART UNIT

PAPER NUMBER

3753

MAIL DATE

DELIVERY MODE

12/17/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/530,086	<b>Applicant(s)</b> GAGET ET AL.	
	<b>Examiner</b> Craig Price	<b>Art Unit</b> 3753	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12 September 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Claims 11-23 are pending.

#### ***Drawings***

Applicant's amendment overcomes the drawing objection.

#### ***Claim Rejections - 35 USC § 112***

Applicant's amendment overcomes the 112 rejection.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 11,12,13,15-19 and 20-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maskell (GB 1,022,574) in view of Muller DE 19740392.

Maskell discloses a breathing system having a first or main oxygen source (7) and the second or emergency oxygen (14) pressurized fluid sources which supply the

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user fluid circuit (1) sequentially based on a loss in pressure in the low pressure source (Col. 3, Lns. 50 – Col. 4, Lns. 71), and a mask (Col. 3, Lns. 4-7).

Maskell is silent to having a second zone, wherein the second zone is connectable to a first pressurized fluid source, and a third zone, wherein the third zone is connectable to a second pressurized fluid source, and a fourth zone, wherein the fourth zone is connectable to a vent circuit, and a slide for sliding partition walls and the sliding walls define the zones, and, wherein the apparatus has an internal layout which is symmetrical with respect to a center plane and the center plain is substantially perpendicular to the mobile structure, and wherein the first zone and the fourth zone are arranged, about the center plane, and on either side of the mobile structure, and comprising a pair of intermediate chambers, wherein the intermediate chambers are in permanent communication with the first zone.

Muller discloses a sequentially operated valve which teaches the use of the second zone (bore 6) which is connectable to a first pressurized fluid source, and a third zone (bore 9), wherein the third zone is connectable to a second pressurized fluid source, and a fourth zone (bore 8), wherein the fourth zone is connectable to a vent circuit, and a slide (2) for sliding partition walls and the sliding walls define the zones, wherein the apparatus has an internal layout which is symmetrical with respect to a center plane and the center plain is substantially perpendicular to the mobile structure (as shown in Figure 1, the valve is symmetrical), and wherein the first zone and the fourth zone are arranged, about the center plane, and on either side of the mobile structure (as shown in figure 1, they are on either side of the structure), and comprising

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a pair of intermediate chambers (bores 4), wherein the intermediate chambers are in permanent communication with the first zone.

It would have been obvious to one of ordinary skill in the art at the time of invention to substitute a valve as taught by Muller into the device of Maskell in order to have a manual valve which would not be subjected to an automatic spring device which may be prone to failure.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maskell (GB 1,022,574) in view of Muller DE 19740392 and further in view of Baker (4,501,297).

Maskell and Muller are silent to having the mobile structure being connected to a positioning servomotor.

Baker discloses a rotary valve which teaches the use of a servomotor (18).

It would have been obvious to one of ordinary skill in the art at the time of invention to employ a servomotor as taught by Baker into the device of Maskell and Muller in order to control the valve from a remote location.

### ***Response to Arguments***

Applicant's arguments filed 9/12/2008 have been fully considered but they are not persuasive. Applicant's argument with respect to the Maskell reference failing to disclose a fourth zone and not having function for that fourth zone and such a combination renders the device unsafe or inoperable is not persuasive. The fact that Maskell has no function for a fourth zone does not render the system unsafe or inoperable, as this extra zone could be used to enable another user with an alternative oxygen source, should an emergency arise, similar to a buddy breathing system.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Craig Price whose telephone number is (571)272-2712. The examiner can normally be reached on 7AM - 5:30PM Mon-Thurs, Increased flex time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Huson can be reached on (571) 272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CP

/C. P./

Examiner, Art Unit 3753

14 December 2008

/John Rivell/

Primary Examiner, Art Unit 3753